THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.24368 OF 2005

DATED:15.11.2005

Between:

Desamsetti Pydayya Naidu

…Petitioner

And

The Assistant Commissioner, Endowments Department

Visakhapatnam and another

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.24368 OF 2005

ORDER:

The petitioner claims to be successor in title in respect of the lands – Acs.1.71 in S.No.190, Acs.1.35 in S.No.224, Acs.2.00 in S.No.255, Acs.1.25 in S.No.270 and Acs.2.68 in S.No.317/1 – situated at Duppituru Village, Atchuthapuram Mandal, Visakhapatnam District. It appears, the petitioner's paternal grand-father was original pattadar and he also constructed Sri Chowdeswara Swamy Temple, Sri Ramulavari Temple and Sri Chitti Paidithallamma Temple in the village. The petitioner alleges that they are private temples intended for the worship of the family members. It is also the case of the petitioner that the land admeasuring Acs.2.68 in

S.No.317/1 of Duppituru village was endowed to Chowdeswara Swamy Temple in 1951 and the land admeasuring Acs.1.71 in S.No.190 was endowed to Sri Ramuluvari Temple. After death of grand-father, petitioner's father was allegedly managing all the three temples. In 2004, some of these lands were acquired by the Government for the purpose of establishing Special Economic Zone, Unit-I, by the Andhra Pradesh Industrial Infrastructure Corporation. The compensation for the said lands was paid to the Assistant Commissioner of Endowments, Visakhapatnam, who received the same on behalf of the three temples. The petitioner made a representation on 1.10.2005 requesting to pay compensation to him. By impugned endorsement dt.7.11.2005 the second respondent informed that the petitioner's request cannot be considered at this stage. Assailing the same, present Writ Petition is filed.

Learned counsel for the petitioner, Sri K.S.R.Murthy strenuously contends that the Assistant Commissioner of Endowments Department is not the owner of the land and therefore he is not entitled to receive compensation on behalf of the temples in Duppituru Village. Secondly he contends that the three temples in Duppituru Village are private temples for the benefit of family members and they are not public temples, as they are not registered under Section 43 of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, the Act).

The Writ Petition is wholly misconceived. The petitioner has not shown any right for seeking relief as prayed for. The impugned endorsement reads as under.

ENDORSEMENT

Sub: Land Acquisition – Visakhapatnam District – Atchutapuram Mandal – Duppituru Village – S.Nos.317/1, 190, 224, 255 and 270 Measuring an extent of Ac.8-99 cts. – Land acquired by APIIC Ltd., for establishment of SEZ – claim petition received – Reply – Regarding.

Ref: 1. Representation in R.L.No.2217 dt.1.10.2005 of Sri Desamsetty Pydayyanaidu, S/o.Late Pydayya, R/o.Duppituru (V) of Atchutapuram (M).

With reference to your representation cited, I am to inform you that your claim petition may not be considered at this stage for the reasons stated below.

a. Your claim was not received in time for the lands mentioned in your representation, though you have claimed and received compensation for the other lands owned by you in the village.

b. Claims were received from the Assistant Commissioner, Endowments, Visakhapatnam on behalf of the Notified Temple lands for payment of compensation in time. Accordingly, awards were passed in favour of the Temples for the lands mentioned in your representation.

Spl. Deputy Collector (L.A.)

SEZ Unit-I, Visakhapatnam.

It is very plain from the reading of the endorsement that the petitioner himself claimed compensation for the other lands acquired in the village and he did not file any claim statement in respect of the lands in S.Nos.190, 224, 255, 270 and 317/1 admeasuring Acs.8.99. Therefore, when the compensation was paid to the Assistant Commissioner, who received the same on behalf of the notified temples, the petitioner cannot be said to have any right to claim compensation.

Secondly, whether or not a temple is registered under the provisions of the Act, the provisions of the Act are applicable equally. If any person claims a temple as private temple, the remedy lies to make an application to the jurisdictional Deputy Commissioner of Endowments under Section 87 of the Act. In a Writ Petition no finding can be recorded whether or not a particular temple is public temple or private temple. As the petitioner admittedly did not file any application before the Deputy Commissioner, second respondent is justified in rejecting the claim of the petitioner.

The Writ Petition, for the above reasons, is dismissed.

15.11.2005 (V.V.S.RAO, J)

bnr